

REMARKS

In accordance with the foregoing, claim 103 has been cancelled.

The Examiner states that newly added (amended or not) and original amended claims are always underlined throughout the prosecution. The Examiner is referred to the following excerpt of MPEP §1453.

II. THE CLAIMS

37 CFR 1.173(b)(2) relates to the manner of making amendments to the claims in reissue applications. It is not to be used for making amendments to the remainder of the specification or to the drawings. 37 CFR 1.173(b)(2) requires that:

(A) For each claim that is being amended *by the amendment being submitted* (the current amendment), the entire text of the claim must be presented with markings as defined above;

(B) For each new claim added to the reissue *by the amendment being submitted* (the current amendment), the entire text of the added claim must be presented completely underlined;

(C) A patent claim should be canceled by a direction to cancel that claim, there is no need to present the patent claim surrounded by brackets; and

(D) A new claim (previously added in the reissue) should be canceled by a direction to cancel that claim.

As indicated by the italics, if applicants are amending a new claim, then the new claim must be underlined in its entirety. On the other hand, if no claim changes are being made, then underlining not required. The Examiner is referred to his previous Office Action issued on October 5, 2009. This Office Action indicates that "claims containing underlining should be labeled as currently amended." Accordingly, the Examiner apparently understands that if underlining is contained in a new claim, then that new claim has been amended. It would be inappropriate for applicants to revise the amendment previously filed to underline all claims added subsequent to the patent issue date. If applicants were to proceed in this manner, as suggested by the Examiner, applicants would expect to receive an Office Action similar to the October 5, 2009 Office Action.

In non-reissue applications, 37 CFR §1.121(c) indicates that each amendment that includes a claim change must contain a complete listing of all claims. On the other hand, referring to 37 CFR §1.173(b),(c) and (d), there is no such requirement for reissue applications.

Accordingly, this amendment shows only the cancellation of claim 103 and does not list any claims. The undersigned discussed this matter several times with Examiner Tso. Examiner Tso indicated that supervisor Jose Dees would be making a final determination regarding whether the form of the amendment was correct. Applicants have provided the Patent Office with many versions of the claims, some of which include underlining for all claims added after the original issue date. Based on a discussion with Mr. Dees, it is believed that the reissued patent can be correctly printed based on one of the versions of claims previously provided.

In view of claim 103 being cancelled, it is submitted that the application is now in condition for allowance. An early action to that effect is courteously solicited.

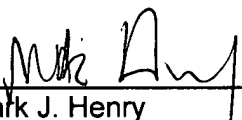
Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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